



# WEEKLY REPORT

State Senator Gary Nodler  
District 32



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## **LAWMAKERS MAKE SECOND ATTEMPT TO REFORM MISSOURI'S TORT LAWS**

In a second attempt to reform Missouri's tort laws, the Senate passed legislation – House Bill 1304 – that would place new limits on most lawsuits and should lower doctors' costs for malpractice insurance.

As most of you undoubtedly recall, the General Assembly passed a tort reform measure last year that was vetoed by Gov. Bob Holden. This session, lawmakers have attempted to craft a bill that has nothing in it that the governor will object to and that he will sign into law.

The economic and legal condition of America's tort system has come under increasing criticism for being far too costly and incapable of administering fair awards. Lawmakers across the country are wrestling with complex tort reform laws even as malpractice premiums and healthcare costs continue to rise.

Missouri's legal system has become a haven for attorneys to file frivolous lawsuits in hopes of forcing healthcare providers to offer a settlement rather than pay the legal cost of a trial.

HB 1304 would prohibit venue shopping, an all too common practice in Missouri's court systems. Under this practice, lawyers file lawsuits in a county that has a reputation for giving favorable judgments to plaintiffs.

HB 1304 would limit the filing of lawsuits – including medical malpractice – to only the county where the action occurred. If the action in question did not occur in Missouri, then venue would be in the county where the individual defendant resides or the county where the corporation has the largest number of employees for the past two years for corporate defendants.

In addition, a court must dismiss any medical malpractice claim where the plaintiff fails to file an affidavit stating that he or she has obtained the written opinion of a legally qualified

health care provider which states that the defendant failed to use reasonable care and such care caused the plaintiff's damages.

Other reform measures included in this bill:

- Punitive damage award would be defined to include an award for punitive or exemplary damages as well as an award for aggravating circumstances. Discovery of a defendant's assets could only occur after the trial court finds the plaintiff would have a submissable case for punitive damages.
- The medical malpractice noneconomic damage cap for all plaintiffs would be lowered from its current inflation-adjusted cap of \$565,000 (adjusted from its base amount of \$350,000 in 1986) to \$350,000. There would be an inflation adjustment beginning Aug. 28, 2004. No plaintiff could recover more than \$350,000 regardless of the number of defendants.

While much of this legislation is meant to address problems in healthcare litigation, it also attempts to correct the abuses in Missouri's legal system that have driven up the cost of consumer products, strangled businesses with unwarranted lawsuits and driven businesses out of the state.

I believe this bill represents the best legislation possible in this session. A decision to veto this measure would be purely political and would be against the best interests of the people of Missouri.

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